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The Honorable Robert S. Lasnik

FEB 02 2015

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON DEPT

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JALEEL TARIQ ABDUL-JABBAAR,

Defendant.

NO. CR14-358RSL

PLEA AGREEMENT

The United States of America, by and through Annette L. Hayes, Acting United States Attorney for the Western District of Washington, and Todd Greenberg, Assistant United States Attorney for said District, Defendant, JALEEL TARIQ ABDUL-JABBAAR, and his attorneys, Michael Filipovic and Kyana Givens, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c):

1. **The Charge.** Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to the following charge contained in the Indictment:

Interstate Threats, as charged in Count 3, in violation of Title 18, United States Code, Section 875(c);

1 By entering the plea of guilty, Defendant hereby waives all objections to the form
2 of the charging document and also waives any objection to venue. Defendant further
3 understands that before entering his plea of guilty, he will be placed under oath. Any
4 statement given by Defendant under oath may be used by the United States in a
5 prosecution for perjury or false statement.

6 2. **Elements of the Offense.** The elements of the offense of *Interstate*
7 *Threats*, as charged in Count 3, in violation of Title 18, United States Code, Section
8 875(c), are as follows:

9 First, the defendant knowingly and willfully transmitted a communication
10 containing a threat to injure the person of another;

11 Second, the communication was transmitted in interstate commerce;

12 Third, the defendant intended that the communication be taken as a threat;
13 and

14 Fourth, under the circumstances in which the threat was made, a reasonable
15 person would foresee that it would be understood by persons hearing or
16 reading it as a serious expression of an intention to injure the person of
another.

17 3. **The Penalties.** Defendant understands that the statutory penalties for the
18 offense of *Interstate Threats*, as charged in Count 3, in violation of Title 18, United
19 States Code, Section 875(c), are as follows: imprisonment for up to five (5) years, a fine
20 of up to two hundred and fifty thousand dollars (\$250,000.00), a period of supervision
21 following release from prison of up to three (3) years, and a special assessment of one
22 hundred dollars (\$100.00). If Defendant receives a sentence of probation, the
23 probationary period could be up to five (5) years. Defendant agrees that the special
24 assessment shall be paid at or before the time of sentencing.

25 Defendant understands that supervised release is a period of time following
26 imprisonment during which he will be subject to certain restrictions and requirements.
27 Defendant further understands that if supervised release is imposed and he violates one or
28

1 more of its conditions, Defendant could be returned to prison for all or part of the term of
 2 supervised release that was originally imposed. This could result in Defendant's serving
 3 a total term of imprisonment greater than the statutory maximum stated above.

4 Defendant understands that in addition to any term of imprisonment and/or fine
 5 that is imposed, the Court may order him to pay restitution to any victim of the offense,
 6 as required by law.

7 Defendant agrees that any monetary penalty the Court imposes, including the
 8 special assessment, fine, costs, or restitution, is due and payable immediately and further
 9 agrees to submit a completed Financial Statement of Debtor form as requested by the
 10 United States Attorney's Office.

11 **4. Rights Waived by Pleading Guilty.** Defendant understands that by
 12 pleading guilty, he knowingly and voluntarily waives the following rights:

- 13 a. The right to plead not guilty and to persist in a plea of not guilty;
- 14 b. The right to a speedy and public trial before a jury of his peers;
- 15 c. The right to the effective assistance of counsel at trial, including, if
 16 Defendant could not afford an attorney, the right to have the Court appoint one for him;
- 17 d. The right to be presumed innocent until guilt has been established beyond a
 18 reasonable doubt at trial;
- 19 e. The right to confront and cross-examine witnesses against Defendant at
 20 trial;
- 21 f. The right to compel or subpoena witnesses to appear on his behalf at trial;
- 22 g. The right to testify or to remain silent at trial, at which trial such silence
 23 could not be used against Defendant; and
- 24 h. The right to appeal a finding of guilt or any pretrial rulings.

25 **5. United States Sentencing Guidelines.** Defendant understands and
 26 acknowledges that, at sentencing, the Court must consider the sentencing range
 27 calculated under the United States Sentencing Guidelines, together with the other factors
 28 set forth in Title 18, United States Code, Section 3553(a), including: (1) the nature and

1 circumstances of the offense; (2) the history and characteristics of the defendant; (3) the
 2 need for the sentence to reflect the seriousness of the offense, to promote respect for the
 3 law, and to provide just punishment for the offense; (4) the need for the sentence to
 4 afford adequate deterrence to criminal conduct; (5) the need for the sentence to protect
 5 the public from further crimes of the defendant; (6) the need to provide the defendant
 6 with educational and vocational training, medical care, or other correctional treatment in
 7 the most effective manner; (7) the kinds of sentences available; (8) the need to provide
 8 restitution to victims; and (9) the need to avoid unwarranted sentence disparity among
 9 defendants involved in similar conduct who have similar records. Accordingly,
 10 Defendant understands and acknowledges that:

11 a. The Court will determine his applicable Sentencing Guidelines range at the
 12 time of sentencing;

13 b. After consideration of the Sentencing Guidelines and the factors in
 14 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law, up to the
 15 maximum term authorized by law;

16 c. The Court is not bound by any recommendation regarding the sentence to
 17 be imposed, or by any calculation or estimation of the Sentencing Guidelines range
 18 offered by the parties or the United States Probation Department, or by any stipulations
 19 or agreements between the parties in this Plea Agreement; and

20 d. Defendant may not withdraw a guilty plea solely because of the sentence
 21 imposed by the Court.

22 6. **Ultimate Sentence.** Defendant acknowledges that no one has promised or
 23 guaranteed what sentence the Court will impose.

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1 7. **Statement of Facts.** The parties agree on the following facts. Defendant
2 admits he is guilty of the charged offense.

3 Abdul-Jabbaar is the user of the Facebook page located at
4 www.Facebook.com/Jaleel1968. Between August 2014 and
5 November 2014, Abdul-Jabbaar posted numerous communications over
6 this Facebook page concerning the events that took place in Ferguson,
7 Missouri on August 9, 2014, when Ferguson Police Department Officer
8 D.W. fatally shot Michael Brown.

9 Some of Abdul-Jabbaar's postings contained threats to injure Officer D.W.
10 and/or his family members. For example, on November 11, 2014, Abdul-
11 Jabbaar posted the message: "Are there any REAL BLACK MEN that
12 would love to go down to Ferguson Missouri to give back those bullets that
13 Police Officer [D.W.] fired into the body of Mike Brown. If we're unable
14 to locate Officer [D.W.] then We'll return them to his wife and if not her
15 then his children." This communication travelled in interstate commerce
16 between the State of Washington and another state in which Facebook's
17 data centers/servers are located.

18 Abdul-Jabbaar acknowledges that he intended for this communication to be
19 considered as a threat, and that under all of the circumstances, a reasonable
20 person would foresee that it would be understood by other persons as a
21 serious expression of an intention to injure the person of another.

22 The parties agree that the Court may consider additional facts contained in
23 the Presentence Report (subject to standard objections by the parties) and/or
24 that may be presented by the United States or Defendant at the time of
25 sentencing, and that the factual statement contained herein is not intended
26 to limit the facts that the parties may present to the Court at the time of
27 sentencing.

28 8. **Sentencing Factors.** The parties agree that they are free to present
arguments regarding the applicability of any provisions of the United States Sentencing
Guidelines. Defendant understands that at the time of sentencing, the Court is free to
apply any provisions of the Sentencing Guidelines in determining Defendant's
Sentencing Guidelines range.

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1 **9. Agreement as to Sentencing Recommendation.** The government and
2 Defendant agree to recommend the following at the time of sentencing:

3 A sentence of imprisonment of time served as of the date of the entry of the
4 guilty plea;

5 That Defendant be placed on an appearance bond pending sentencing, and
6 that the bond contain the following conditions, among others: (a) Defendant
7 shall be under home detention with location monitoring; and
8 (b) Defendant's access to the internet will be limited to job searches, work
9 necessary for his part-time computer business, and communication with
10 family and close friends by Skype and/or email; Defendant shall not access
11 social media sites including, but not limited to, Facebook, Twitter and
12 Instagram; and Defendant will permit the U.S. Probation Office to monitor
13 his computer usage to ensure compliance with this condition;

14 A term of supervised release of three years, with both parties free to
15 recommend any conditions of supervised release that they deem appropriate
16 at the time of sentencing, with the exception that the government will not
17 advocate for a more restrictive condition related to Defendant's allowable
18 computer usage than is set forth immediately above with respect to the
19 appearance bond.

20 **10. Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,
21 the United States Attorney's Office for the Western District of Washington agrees to
22 dismiss Counts 1, 2, 4 and 5 of the Indictment and not to prosecute Defendant for any
23 additional offenses known to it as of the time of this Agreement that are based upon
24 evidence in its possession at this time, and that arise out of the conduct giving rise to this
25 investigation. In this regard, Defendant recognizes the United States has agreed not to
26 prosecute all of the criminal charges the evidence establishes were committed by
27 Defendant solely because of the promises made by Defendant in this Agreement.
28 Defendant agrees, however, that for purposes of preparing the Presentence Report, the
United States Attorney's Office will provide the United States Probation Office with
evidence of all conduct committed by Defendant. Defendant agrees that any charges to
be dismissed before or at the time of sentencing were substantially justified in light of the
evidence available to the United States, were not vexatious, frivolous or taken in bad

1 faith, and do not provide Defendant with a basis for any future claims under the "Hyde
2 Amendment," Pub. L. No. 105-119 (1997).

3 **11. Breach, Waiver, and Post-Plea Conduct.** Defendant agrees that if
4 Defendant breaches this Plea Agreement, the United States may withdraw from this Plea
5 Agreement and Defendant may be prosecuted for all offenses for which the United States
6 has evidence. Defendant agrees not to oppose any steps taken by the United States to
7 nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea
8 Agreement. Defendant also agrees that if Defendant is in breach of this Plea Agreement,
9 Defendant has waived any objection to the re-institution of any charges in the Indictment
10 that were previously dismissed or any additional charges that had not been prosecuted.
11 Defendant further understands that if, after the date of this Agreement, Defendant should
12 engage in illegal conduct, or conduct that is in violation of his conditions of his release
13 (examples of which include, but are not limited to: obstruction of justice, failure to appear
14 for a court proceeding, criminal conduct while pending sentencing, and false statements
15 to law enforcement agents, the Pretrial Services Officer, Probation Officer, or Court), the
16 United States is free under this Agreement to file additional charges against Defendant or
17 to seek a sentence that takes such conduct into consideration by requesting the Court to
18 apply additional adjustments or enhancements in its Sentencing Guidelines calculations
19 in order to increase the applicable advisory Guidelines range, and/or by seeking an
20 upward departure or variance from the calculated advisory Guidelines range. Under
21 these circumstances, the United States is free to seek such adjustments, enhancements,
22 departures, and/or variances even if otherwise precluded by the terms of the plea
23 agreement.

24 **12. Waiver of Appeal.** As part of this Plea Agreement and on the condition
25 that the Court imposes a custodial sentence that is within or below the Sentencing
26 Guidelines range that is determined by the Court at the time of sentencing, Defendant
27 waives to the full extent of the law:
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1 a. any right conferred by Title 18, United States Code, Section 3742 to appeal
2 the sentence, including any restitution order imposed; and

3 b. any right to bring a collateral attack against the conviction and sentence,
4 including any restitution order imposed, except as it may relate to the effectiveness of
5 legal representation.

6 Furthermore, this waiver does not preclude Defendant from bringing an
7 appropriate motion pursuant to 28 U.S.C. 2241, to address the conditions of his
8 confinement or the decisions of the Bureau of Prisons regarding the execution of his
9 sentence.

10 If Defendant breaches this Plea Agreement at any time by appealing or collaterally
11 attacking (except as to effectiveness of legal representation) the conviction or sentence in
12 any way, the United States may prosecute Defendant for any counts, including those with
13 mandatory minimum sentences, that were dismissed or not charged pursuant to this Plea
14 Agreement.

15 13. **Statute of Limitations.** In the event this Agreement is not accepted by the
16 Court for any reason, or Defendant has breached any of the terms of this Plea Agreement,
17 the statute of limitations shall be deemed to have been tolled from the date of the Plea
18 Agreement to: (1) thirty (30) days following the date of non-acceptance of the Plea
19 Agreement by the Court; or (2) thirty (30) days following the date on which a breach of
20 the Plea Agreement by Defendant is discovered by the United States Attorney's Office.

21 14. **Voluntariness of Plea.** Defendant agrees that Defendant has entered into
22 this Plea Agreement freely and voluntarily and that no threats or promises, other than the
23 promises contained in this Plea Agreement, were made to induce Defendant to enter this
24 plea of guilty.

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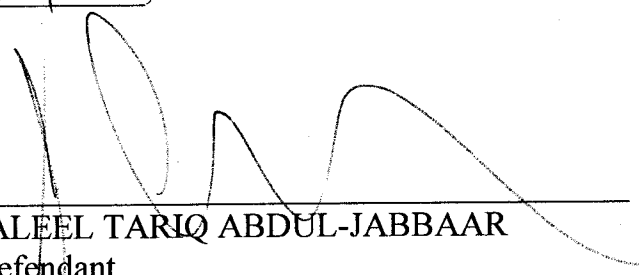
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1 **15. Completeness of Agreement.** The United States and Defendant
2 acknowledge that these terms constitute the entire Plea Agreement between the parties.
3 This Agreement binds only the United States Attorney's Office for the Western District
4 of Washington. It does not bind any other United States Attorney's Office or any other
5 office or agency of the United States, or any state or local prosecutor.

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7 Dated this 2nd day of FEBRUARY, 2015.

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12 JALEEL TARIQ ABDUL-JABBAAR
Defendant

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15 (for) MICHAEL FILIPOVIC
16 KYANA GIVENS
17 Attorneys for Defendant

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20 TODD GREENBERG
21 Assistant United States Attorney
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